

Joseph H. Low IV (SBN 194897)
THE LAW FIRM OF JOSEPH H. LOW IV
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Attorney for Defendant
LEONARDO SAN JUAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Criminal Case No. 07CR3239-JM
)	
Plaintiff,)	
vs.)	
LEONARDO SAN JUAN, JR.)	
)	
Defendant.)	

MOTION TO OBTAIN A BILL OF PARTICULARS

TO THE CLERK OF THE COURT AND ALL PARTIES OF RECORD:

The defendant Leonardo San Juan, through undersigned counsel, moves the Court, pursuant to Fed. R. Crim. P. 7(f), for a bill of particulars with respect to count one. Leonardo San Juan requests a hearing on this motion.

FACTUAL BACKGROUND

Defendant Leonardo San Juan is charged in a one count indictment containing a possession allegation. Count one of the indictment charges Leonardo San Juan, with Possession of an Unregistered Firearm in violation of 26 U.S.C. §5861(d).

Count one sets forth that from at least around July 5, 2006, Leonardo San Juan did:

willfully and unlawfully possess a firearm, to wit: one (1) fully automatic AK-47 machinegun, which had not been registered to defendant in the National Firearms Registration and Transfer Record.

ARGUMENT

1. The government should file a bill of particulars:

Fed. R. Crim. P. 7(c)(1) provides that an indictment shall contain a “plain, concise, and definite written statement of the essential facts constituting the offense charged.” Fed. R. Crim. P. 7(f) gives the Court discretion to direct the filing of a bill of particulars in that regard. United States v. Ramirez, 54 F. Supp. 2d 25, 29 (D.D.C. 1999). Courts should grant a motion for a bill of particulars when “‘necessary to prevent unfair surprise at trial’” and the Court must strike a “‘prudent balance’ between the legitimate interests of the government and those of the defendants.” Id. (citing United States v. Butler, 822 F.2d 1191, 1192-93 (D.C. Cir. 1987) (additional citations omitted)). A bill of particulars “properly includes clarification of the indictment[.]” Ramirez, 54 F.Supp. 2d at 30.

CONCLUSION

For the reasons stated above, and for any other reason that the Court may deem just and proper, defendant Leonardo San Juan respectfully requests that the Court direct the filing of a bill of particulars with respect to Count one of the indictment as requested herein.

DATED: December 20, 2007

Respectfully Submitted,

/s/ Joseph H. Low IV

JOSEPH H. LOW IV

Attorney for Defendant

Leonardo San Juan

Email: joseph@jhlaw.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Criminal Case No. 07CR3239-JM
)
Plaintiff,)
vs.)
LEONARDO SAN JUAN, JR.)
)
Defendant.)

IT IS HEREBY CERTIFIED THAT:

I, MEGAN TANKERSLEY, am a citizen of the United States and am at least eighteen years of age. My business address in One World Trade Center, Suite 2320, Long Beach, CA 90831.

I am not a party to the above-entitled action. I have caused service of **MOTION TO OBTAIN A BILL OF PARTICULARS** on the following parties by electronically filing the foregoing with the Clerk of the District Court using ECF System, which electronically notifies them.

Karen P. Hewitt
United States Attorney
Nicole Acton Jones
Assistant U.S. Attorney

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 20, 2007

/s/ Megan Tankersley
MEGAN TANKERSLEY

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THE LAW FIRM OF JOSEPH H. LOW IV
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5 Attorney for Defendant
LEONARDO SAN JUAN
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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) Criminal Case No. 07CR3239-JM
11)
12 Plaintiff,)
13 vs.)
14 LEONARDO SAN JUAN, JR.)
15 Defendant.)
16

17 MOTION TO CONTINUE MOTION HEARING/TRIAL SETTING

18 TO THE CLERK OF THE COURT AND ALL PARTIES OF RECORD:

19 Leonardo San Juan, Jr., by and through his attorney, Joseph H. Low, IV, hereby moves
20 this court to permit him to file motions after January 4, 2008, if such motions should become
21 necessary because the government fails to comply with its obligation to produce such
22 information in a timely fashion or because of newly uncovered information. As grounds for this
23 motion, Leonardo San Juan states as follows:

24 1. At the arraignment on December 5, 2007, this Court set a January 4, 2008
25 deadline for filing all motions.

26 2. Counsel for the government has indicated that some initial discovery has been
27 sent via mail to the defense, but has not been received by defense at the time of this motion.
28 Therefore, such discovery is not complete at this time.

1 3. Federal Rules of Criminal Procedure, Rule 12(d) states: "The court must decide every
2 pre-trial motion before trial unless it finds good cause to defer a ruling."

3 4. Undersigned counsel wishes to attempt to resolve all such discovery issues informally
4 before filing a motion to compel, and to only file such a motion should these informal efforts be
5 unavailing. Although the motions deadline is not until January 4, 2008, this motion is being filed
6 prior to that date because undersigned will be out of the office for the entire time of December
7 24, 2007- January 3, 2008.

8 5. Accordingly, the defendant requests that the Court permit him to file such motions
9 after January 4, 2008, if the government fails to comply with its discovery obligations and
10 informal efforts to resolve these issues are unsuccessful, or if newly disclosed discovery provides
11 a basis for additional defense motions.

12 WHEREFORE, for the foregoing reasons, and other reasons this Court may deem just
13 and proper, it is respectfully requested that defendant Leonardo San Juan's Motion be granted.

14
15 DATED: December 20, 2007

16 Respectfully Submitted,

17
18 /s/ Joseph H. Low IV

19 JOSEPH H. LOW IV

20 Attorney for Defendant

21 Leonardo San Juan

22 Email: joseph@jhllaw.com
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Attorney for Defendant
LEONARDO SAN JUAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Criminal Case No. 07CR3239-JM
)	
)	
vs.)	DECLARATION OF JOSEPH H. LOW IV IN
)	SUPPORT OF MOTION TO CONTINUE
)	MOTIONS HEARING/TRIAL SETTING
LEONARDO SAN JUAN, JR.)	
)	
Defendant.)	

I, Joseph H. Low IV, declare:

1. I am an attorney at law, licensed to practice before the United States District Court, Southern District of California. I know the facts set forth herein to be true of my own personal knowledge, except where otherwise indicated.

2. I am counsel of record in this action for the Defendant, Leonardo San Juan.

3. On December 20, 2007, I received a message from Nicole Jones stating discovery had not been provided to defense, however, she was going to mail the discovery today.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed this 20th day of December 2007.

Respectfully Submitted,

/s/ Joseph H. Low IV

JOSEPH H. LOW IV
Attorney for Defendant
Leonardo San Juan

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Criminal Case No. 07CR3239-JM
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Plaintiff,)	
vs.)	
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I, MEGAN TANKERSLEY, am a citizen of the United States and am at least eighteen years of age. My business address in One World Trade Center, Suite 2320, Long Beach, CA 90831.

I am not a party to the above-entitled action. I have caused service of **MOTION TO CONTINUE MOTION HEARING/TRIAL SETTING & DECLARATION OF JOSEPH H. LOW IV** on the following parties by electronically filing the foregoing with the Clerk of the District Court using ECF System, which electronically notifies them.

Karen P. Hewitt
United States Attorney
Nicole Acton Jones
Assistant U.S. Attorney

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 20, 2007

/s/ Megan Tankersley
MEGAN TANKERSLEY